

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HAROLD C. OPSTAD,

Defendant.

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CR. 09-40059

REPORT AND RECOMMENDATION
ON DEFENDANT'S CHANGE
OF PLEA

This matter came before the court for a change of plea hearing on Tuesday, October 13, 2009. The Defendant, Harold C. Opstad, appeared in person and by his counsel, Assistant Federal Public Defender Tim Langley, while the United States appeared by its Assistant United States Attorney, Jeff Clapper.

The defendant consented in open court to the change of plea before a United States magistrate judge. This court finds that the defendant's consent was voluntary and upon the advice of counsel. The government also consented to the plea hearing before a magistrate judge. Further, the parties waived their right to object to the report and recommendation.

Defendant has reached a plea agreement wherein he intends to plead guilty to the Indictment which charges him with Failure to Pay Legal Child Support Obligations in violation of 18 U.S.C. § 228(a)(3). At the hearing, the defendant was advised of the nature of the charges to which the defendant would plead guilty and the maximum penalties applicable, specifically: 2 years imprisonment; a \$250,000 fine; or both; 1 year supervised release; 1 additional year imprisonment if supervised release is revoked; a \$100 special assessment, and restitution.

Upon questioning the defendant personally in open court, it is the finding of the court that the defendant is fully competent and capable of entering an informed plea, that the defendant is aware of the nature of the charges and the consequences of the plea, and that his plea of guilty to the Indictment is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense. The defendant's guilty plea to the Indictment is accepted. It is my report and recommendation that the defendant be adjudged guilty of that offense.

Dated this 13th day of October, 2009.

BY THE COURT:

s/John E. Simko

John E. Simko
United States Magistrate Judge